

No. 5:08-CR-100-1-F

ORDER

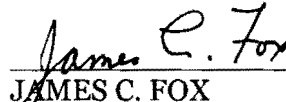
Clark may not circumvent the limitations imposed on § 2255 actions by seeking *Simmons* relief in a § 3582(c)(2) motion. Clark already has had a prior § 2255 motion denied on the merits, *see* Order [DE-27]. Rather than deny the instant motion outright as successive, however, the court is reserving ruling until the Fourth Circuit announces a decision in *Powell* on the chance that the decision *possibly* could benefit Clark. Clark may renew his Motion to Reconsider [DE-51], if appropriate, after this court rules on his § 2255 *Simmons* motion, in light of the Government's Motion to Dismiss [DE-41].

¹ Clark's § 2255 case is *Clark v. United States*, No. 5:08-CR-100-1/5:11-CV-558-F.

The court regrets the piecemeal manner in which Clark's motions must be addressed. However, the unstable and unpredictable status of the controlling law leave no choice.

SO ORDERED.

This, the 20th day of June, 2012.



JAMES C. FOX
Senior United States District Judge